



PATENT

Attorney Docket No.: 6056-277

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of
Stephan C. Cosenza *et al.*

Group Art Unit: 1614

#7098
10-21-01

Serial No.: 09/689,281

Examiner: M. Bahar

Filed October 11, 2000

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For: Method For Protecting Normal Cells
Cytotoxicity Of Chemotherapeutic
Agents

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RESPONSE TO ELECTION OF SPECIES REQUIREMENT

This is in response to the office action mailed April 10, 2001 (Paper No. 10). The action constitutes an election of species requirement. The action alleges that claims 1-10 and 12-22 are generic to a plurality of disclosed patentably distinct species of α,β -unsaturated arylsulfone compounds.. The action further alleges that the diversity of species requires a search of many different subclasses.

Applicants provisionally elect, for purposes of examination, the species of the claimed method which utilizes the compound 4-carboxystyryl-4-chlorobenzylsulfone as the administered α,β -unsaturated arylsulfone. If an isomer is required for the election, applicants elect the *E* isomer of that compound, that is, (E)-4-carboxystyryl-4-chlorobenzylsulfone. The use of this compound is specifically claimed in claim 7. The election is made with traverse.

**CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

BY J. Lynn Ferry

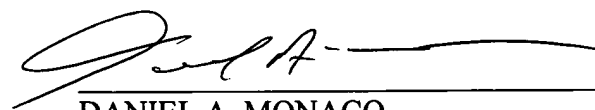
DATE: June 11, 2001

The claims which read upon the elected species 4-carboxystyryl-4-chlorobenzylsulfone are claims 1-7 and 12-22. If the election must be confined to the *E* isomer of 4-carboxystyryl-4-chlorobenzylsulfone, then the claims which read thereon are claims 1-7 and 13-22.

The invention defined by the claims is unified by the fact that the administered compounds share the common α,β -unsaturated arylsulfone structure as set forth at page 4 of the specification, lines 1-6. The claims of the application are further unified by the fact that a common therapeutic utility is indicated, namely, protection of subjects from the cytotoxic side effects of mitotic phase cell cycle inhibitors and topoisomerase inhibitors, two common classes of chemotherapeutic agents. Hence, the claims of the invention are believed to present a single inventive concept capable of examination in a single application. Reconsideration of the election of species requirement is therefore requested.

Respectfully submitted,

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